

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

| | | |
|--------------------------------------|---|--------------------|
| SHERRY A. EVANS |) | |
| Claimant |) | |
| VS. |) | |
| |) | Docket No. 217,709 |
| NEOSHO MEMORIAL REGIONAL |) | |
| MEDICAL CENTER |) | |
| Respondent |) | |
| AND |) | |
| |) | |
| KANSAS HOSPITAL SERVICE CORP. |) | |
| Insurance Carrier |) | |

ORDER

Respondent appeals from a preliminary hearing Order entered by Administrative Law Judge Jon L. Frobish on December 12, 1996.

ISSUES

Respondent asserts the Order for benefits should be reversed because claimant failed to give notice as required by K.S.A. 44-520.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record and considering the arguments, the Appeals Board finds that the Order by the Administrative Law Judge should be affirmed. Claimant testified that she suffered injury on May 15, 1996, while assisting a patient getting out of bed. She first noticed back and side pain. She reported the accident that day and filled out a report of injury that day. Later that same evening she noticed pain in her shoulder. She reported the shoulder pain the following day to Mrs. Coonts, one of the RNs working for respondent. Although Mrs. Coonts was not claimant's immediate supervisor at the time, the record

indicates she does act in a supervisory capacity for respondent. Claimant has now been diagnosed as having rotator cuff tear and seeks medical treatment for the shoulder injury.

The Appeals Board finds that the notice was adequate in this case for two reasons. First, K.S.A. 44-520 requires notice of accident which clearly was given in this case. In addition, the report of the additional symptoms and injury to the shoulder the following day appears adequate when given to one of the RNs who had an obligation to make a further report.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge Jon L. Frobish dated December 12, 1996, should be, and the same is hereby, affirmed.

IT IS SO ORDERED.

Dated this ____ day of February 1997.

BOARD MEMBER

c: Timothy A. Short, Pittsburg, KS
John I. O'Connor, Pittsburg, KS
Jon L. Frobish, Administrative Law Judge
Philip S. Harness, Director